



**Wambugu v Republic (Criminal Petition E044 of 2021)  
[2025] KEHC 2017 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2017 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL PETITION E044 OF 2021  
E OMINDE, J  
FEBRUARY 20, 2025**

**BETWEEN**

**DAVID MWANGI WAMBUGU ..... PETITIONER**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Petitioner herein moved this Court by way of a Notice of Motion Court stamped as received by the Court on 22<sup>nd</sup> July 2021. He prays to Court that as provided under Section 333(2) of the Criminal Procedure Code, the Court considers and factors into his sentence the period of 2 years that he was in remand custody during the trial.
2. He states in the Affidavit in support of the Application that he was charged with the offence of Defilement contrary to Section 8(1) as read with Section 8(3) of the Sexual Offences Act No 3 of 2006 Laws of Kenya, convicted and sentenced to 15 years' imprisonment. That he has no issue with the conviction and the sentence and has only one Ground of Appeal as above.
3. Counsel for the State in his oral response to this Application stated that for reasons that the cited provision of the law is mandatory and that if indeed the applicant was indeed in remand custody as he states then he concedes that the period of 2 years can be factored into the applicant's 10-year sentence.
4. I have perused the record of proceedings of sentencing. It does not indicate that that the period that the applicant spent in remand was included in the 15 years imprisonment sentence. I agree with the prosecution that this provision is mandatory. The applicant took plea on 12<sup>th</sup> July 2019 and was sentenced on 15<sup>th</sup> July 2021 bringing the aggregate period to 2 years. In this regard, I allow the Application and direct the period of 2 years that the applicant spent in remand be computed in his sentence of 15 years' imprisonment.
5. Right of Appeal 14 days



**READ DATED AND SIGNED AT ELDORET ON 20<sup>TH</sup> FEBRUARY 2025.**

**E. OMINDE**

**JUDGE**

